THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :9251 of 2006

DATED:29-03-2007

BETWEEN:

Gella Chakrapani.

..... PETITIONER

AND

The Superintendent of Police,
Khammam,
Khammam District & 2 others.

.....RESPONDENTS

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ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Home appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the inaction of the respondent police in not recovering the gold belonging to the petitioner from the accused in Cr.No.108/2005 on the file of Mudigonda Police station even though the accused are very much available, as illegal, and arbitrary.

3. It is stated that on 28-10-2005 while the wife and sisters-in-law of the petitioner were travelling in a vehicle some persons travelling along with them, on the point of knife, robbed the entire gold ornaments from them and threatened with dire consequences. As the petitioner identified the persons who have committed the robbery, he has filed a complaint before the police but no action has been taken so far. Aggrieved thereby the present Writ Petition has been field.

4. Respondents filed a counter stating that on the complaint filed by the petitioner, Cr.No.108/ 2005 was registered for the offence punishable under Section 392 IPC on 18-12-2005, but whereas the incident is alleged to have been taken place on 28-10-2005. Therefore, there is a lapse of two months in filing the complaint, and though the alleged persons were examined by the police, but nothing could be elicited about their involvement, and it

was not established by any cogent evidence except the statements of the relatives of the petitioner.

5. Having regard to the facts and circumstances of the case, if the petitioner is not satisfied with the way of investigation conducted by the police, it is always open for him to file a private complaint before the concerned Magistrate in which case, it is for the concerned Magistrate to call for the report from the police on the pending crime and if the police files the report it is for the concerned Magistrate to enquire into both the private complaint as well as the police report.

6. In view of the aforesaid remedy available to the petitioner for taking effective appropriate steps no orders need be passed in this Writ Petition.

7. Accordingly, the Writ Petition is dismissed with a liberty to the petitioner to take appropriation action in accordance with law as indicated above. No order as to costs.

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V.ESWARAIAH, J

29th March, 2007
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